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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2013-927**

13 **ANITA LOUISE JONES**
14 **A.K.A. ANITA LOUISE LONG**
15 **A.K.A. ANITA LOUISE TAMBURRO**
16 **1009 Rosetree Lane**
Tarpon Springs, Florida 34689

17 **Registered Nurse License No. 573061**

A C C U S A T I O N

Respondent.

18 **Complainant alleges:**

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about October 17, 2000, the Board of Registered Nursing issued Registered
24 Nurse License Number 573061 to Anita Louise Jones, also known as Anita Louise Long, and also
25 known as Anita Louise Tamburro (Respondent). The Registered Nurse License was in full force
26 and effect at all times relevant to the charges brought in this Accusation and will expire on May
27 31, 2014, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Code Section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Code section 2750 provides, in part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Code section 2764 provides, in part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY AND REGULATORY PROVISIONS

7. Code section 2761 states, in part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.

8. California Code of Regulations, title 16, section 1442, states:

As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

1 9. California Code of Regulations, title 16, section 1443, states:

2 As used in Section 2761 of the code, 'incompetence' means the lack of possession of
3 or the failure to exercise that degree of learning, skill, care and experience ordinarily
4 possessed and exercised by a competent registered nurse as described in Section 1443.5.

5 10. California Code of Regulations, title 16, section 1443.5, states:

6 A registered nurse shall be considered to be competent when he/she
7 consistently demonstrates the ability to transfer scientific knowledge from social,
8 biological and physical sciences in applying the nursing process, as follows:

9 (1) Formulates a nursing diagnosis through observation of the client's physical
10 condition and behavior, and through interpretation of information obtained from the
11 client and others, including the health team.

12 (2) Formulates a care plan, in collaboration with the client, which ensures that direct
13 and indirect nursing care services provide for the client's safety, comfort, hygiene, and
14 protection, and for disease prevention and restorative measures.

15 (3) Performs skills essential to the kind of nursing action to be taken, explains the
16 health treatment to the client and family and teaches the client and family how to care for
17 the client's health needs.

18 (4) Delegates tasks to subordinates based on the legal scopes of practice of the
19 subordinates and on the preparation and capability needed in the tasks to be delegated, and
20 effectively supervises nursing care being given by subordinates.

21 (5) Evaluates the effectiveness of the care plan through observation of the client's
22 physical condition and behavior, signs and symptoms of illness, and reactions to treatment
23 and through communication with the client and health team members, and modifies the plan
24 as needed.

25 (6) Acts as the client's advocate, as circumstances require, by initiating action to
26 improve health care or to change decisions or activities which are against the interests or
27 wishes of the client, and by giving the client the opportunity to make informed decisions
28 about health care before it is provided.

COST RECOVERY

11. Code section 125.3 provides, in part, that the Board may request the administrative
law judge to direct a licentiate found to have committed a violation or violations of the licensing
act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
case, with failure of the licentiate to comply subjecting the license to not being renewed or
reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a
stipulated settlement.

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1 **FACTUAL STATEMENT**

2 12. From August 2005 through October 2011, the medical office of Stuart I. Jacobs,
3 M.D., employed Respondent as a registered nurse. Dr. Jacobs hired Respondent to perform laser
4 skin services using the Syneron Galaxy Intense Pulsed Light (IPL) system. Prior to and while
5 working for Dr. Jacobs, Respondent did not receive training on how to use the IPL system
6 specifically for laser tattoo removal.

7 13. On or about July 11, 2008, Patient L.B.¹ went to Dr. Jacobs' office and met with
8 Respondent for a tattoo removal consultation.

9 14. On or about July 16, 2008, Respondent performed the laser tattoo removal treatment
10 using the IPL system on Patient L.B.'s toes. There was no history or physician's examination of
11 Patient L.B. Respondent did not perform a spot test on a low setting on Patient L.B. During the
12 treatment, Respondent used higher settings on the IPL system than those set forth in the general
13 protocol for that system. The IPL system was not recommended for tattoo removal and did not
14 have an FDA indication for its use in tattoo removal. Dr. Jacob's office did not have a
15 standardized policy or procedure for laser tattoo removal.

16 15. Patient L.B. suffered adverse results including skin ulcers from the laser tattoo
17 removal treatment by Respondent.

18 **FIRST CAUSE FOR DISCIPLINARY ACTION**

19 (Unprofessional Conduct – Incompetence)
(Bus. & Prof. Code §2761, subd. (a)(1))

20 16. Respondent has subjected her registered nurse license to disciplinary action under
21 Code section 2761, subdivision (a)(1), for unprofessional conduct, as defined by California Code
22 of Regulations, title 16, section 1443, in that she committed acts of incompetence demonstrating
23 the lack of possession of, or the failure to exercise, that degree of learning, skill, care, and
24 experience ordinarily possessed and exercised by a competent registered nurse as described in
25 California Code of Regulations, title 16, section 1443.5. Specifically, Respondent incompetently
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27 ¹ All patients are identified by letters in order to preserve patient confidentiality. The
28 medical record numbers of these patients will be disclosed pursuant to a request for discovery.

1 used the IPL system to remove Patient L.B.'s tattoos when the device was not recommended for
2 tattoo removal, as more particularly set forth in paragraphs 12 through 15, above.

3 **SECOND CAUSE FOR DISCIPLINARY ACTION**

4 (Unprofessional Conduct – Gross Negligence)
5 (Bus. & Prof. Code §2761, subd. (a)(1))

6 17. Respondent has subjected her registered nurse license to disciplinary action under
7 Code section 2761, subdivision (a)(1), for unprofessional conduct, as defined by California Code
8 of Regulations, title 16, section 1442, in that she committed acts of gross negligence in carrying
9 out her usual certified or licensed nursing functions. As more particularly set forth in paragraphs
10 12 through 15, above, Respondent was grossly negligent as follows:

11 a. She failed to exercise ordinary precautions that she knew, or should have known,
12 could harm Patient L.B. when she chose settings too high and inappropriate for the condition
13 being treated.

14 b. She failed to perform a spot test on Patient L.B. at a low setting prior to performing
15 the treatment.

16 **THIRD CAUSE FOR DISCIPLINARY ACTION**

17 (General Unprofessional Conduct)
18 (Bus. & Prof. Code §2761, subd. (a))

19 18. Respondent has subjected her registered nurse license to disciplinary action under
20 Code section 2761, subdivision (a), for general unprofessional conduct in carrying out her usual
21 certified or licensed nursing functions. As more particularly set forth in paragraphs 11 through
22 14, above, Respondent acted unprofessionally as follows:

23 a. She performed the laser tattoo removal treatment without a prior physician's
24 examination of Patient L.B.

25 b. She performed the treatment without a standardized policy and procedure in place for
26 laser tattoo removal.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 573061, issued to Anita Louise Jones, also known as Anita Louise Long, and also known as Anita Louise Tamburro;

2. Ordering Respondent to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED:

April 18, 2013



for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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